In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.R.No. 1490 of 2007 (O&M)
Decided on March 19,2007.

Jaswant Kaur -- Petitioner

vs.

Gurbax Singh -- Respondent.

Present: Mr. G.S.Punia, Advocate, for the petitioner/landlord.

Pritam Pal,J:

This Civil Revision by petitioner/landlord, is directed against order dated October 30,2006, Annexure P-1, passed by learned First Appellate Authority,Ludhiana, which reads as under:-

"Present: Counsel for the parties.

Case taken up, today as 29.10.2006 was holiday. Heard on the application u/s 15 (2) of the East Punjab Urban Rent Restriction Act. Reply to the application also perused. After considering the respective arguments and going through the record, it is observed that the disposal of appeal might take some time. Accordingly, the operation of the impugned order is stayed till the disposal of the appeal subject however, to the appellant depositing the arrears of rent w.e.f 15.12.2005 till date on or before 20.11.2006 and to deposit the monthly rent

thereafter on or before 10th of every month regularly. The case is adjourned to 20.11.2006 for arguments.

Appellate Authority
30.10.2006"

The only contention of learned counsel for the petitioner is that the learned first Appellate Authority in the impugned order has not directed the tenant/respondent during the pendency of the appeal, to pay the rent at the market rate of rent. In support of his this contention, learned counsel has relied upon the case laws Anderson Wright & Co v. Amar Nath Roy and Others (2005) 6 Supreme Court Cases 489, and Surinder Singh v. Dr. Davinder Mohan 2007 (1) Civil Court Cases 009 (P&H).

I have gone through the observations made by their Lordships in the above cited rulings and find that at the stage, when the aforesaid impugned order was passed, no material was available with learned first Appellate Authority to assess the market rate of rent of the demised premises. However, during the pendency of the appeal, the learned first Appellate Authority has rightly ordered the depositing of arrears of rent and further rent till the decision of the appeal, at the rate which was admittedly being paid to the petitioner/landlord by the tenant/respondent, who has filed the appeal against his eviction before the learned first Appellate Authority.

In this view of the matter, no interference in the impugned order, is called for. Hence, this Civil Revision stands dismissed in *limine*.

However, it is made clear that nothing contained here in this order, shall be taken to be an expression of opinion of this Court on the merits of the case, while assessing the market rate of rent in an appropriate proceedings, if initiated in that behalf by the petitioner/landlord.

March 19,2007 (Pritam Pal)
RR Judge